

## **Water Management Act Blue Ribbon Panel Meeting**

September 8<sup>th</sup>, 2006

Office for Commonwealth Development  
100 Cambridge St., Boston, MA

**Present:** Steve McCurdy (OCD), Andrew Gottlieb (OCD), Dave Lutes (EOEA), Ian Cooke (NepWRA), Steve Angers (Trout Unlimited), Phil Guerin (MWWA), Charles Aspinwall (MMA), Pam Heidell (MWRA), Mary Griffin (Mass DEP), Gary Clayton (Mass Audubon), and observers.

**Welcome and Introduction to purpose:** Andrew Gottlieb, Chief, OCD

### **Panel Introductions:**

Gary Clayton: Mass Audubon

Mary Griffin: Acting Dep. Commissioner Department of Environmental Protection (DEP)

Pam Heidell: Policy and Planning Manager, Massachusetts Water Resources Authority (MWRA)

Charles Aspinwall: Massachusetts Municipal Association (MMA) & Town of Millis

Phil Guerin: Massachusetts Water Works Association (MWWA) representative

Steve Angers: Trout Unlimited Grassroots member

Ian Cooke: Neponset Water Resources Association (NepWRA) – Exec. Director

David Lutes: Executive Office of Environmental Affairs (EOEA) – Undersecretary of Policy, representing Secretary Gollledge

Andrew Gottlieb: Office for Commonwealth Development (OCD), Chief

Steve McCurdy: Office for Commonwealth Development (OCD), Deputy Chief

### **Ground rules/process:**

- Meetings are open, but in the interest of staying on track, observers are asked to trust their representatives at the table to speak on their behalf when possible.
- Respect opposing positions.
- Attend all meetings, meet deadlines, follow-through.

### **Process Questions:**

*How will we write and approve the report we submit to legislature?*

The report will reflect the range of opinions represented on the panel. OCD will take lead on writing, but others will be asked to write sections as well.

**Presentation on Water Management Act Permitting Policy:** DEP, Duane LeVangie  
[See Presentation: Appendix A](#)

**Presentation on Stream Flow:** USGS, Peter Weiskel, PhD  
[See Presentation: Appendix B](#)

**Question:** *Was USGS involved in creation of this policy in any way?*

No – USGS is barred by law from participating actively in policy development.

### **Prepared Remarks on Policy from Panel Members:**

**MWWA:** [See Appendix C](#)

**MMA:** [See Appendix D](#)

**DEP:** DEP is looking forward to this panel to be an opportunity for reaching our shared goal of sustainable water use for sustainable future.

**MWRA:** [See Appendix E](#)

**Mass Audubon:** It's incredibly important to keep the long-term perspective in mind as we embark on these meetings.

**NepWRA:** [See Appendix F](#)

### **Initial Brainstorm of Issues to Address on this Panel:**

#### **Process Issues:**

- Some don't believe it's within the scope of this panel to make recommendations on the process concerns raised by some organizations
- Did DEP meet its mandate to engage in a public process when it developed this policy?
- Concern with lack of regulatory/public process in policy development – multiple parties need to be consulted
- Is policy unlawful based on Sec. 3 WMA? – there was no Water Resource Management Advisory Committee consulted
- Does this kind of policy need to be issued as a regulation?
  - Maybe we need to consult the Attorney General?
- What is the Status of WMA Advisory Committee?
- What is the Role of the State WRC?

#### **Science Issues:**

- Believe some USGS Science has been either misapplied, or not brought to light
- How does this policy improve stream flow?
  - Need to see explicit connection
  - Question whether this particular way to increase stream flow should be only one considered?
- Issues with Stress Basin report
  - Not meant to be use in the way DEP used it in policy development.
  - Greater range of opinion and stress levels should be considered
  - How were the different stress levels determined?
- Basis of policy should be a more detailed look at sub-basins – more site-specific

- If further in-depth information (such as above) should be used in policy development, how detailed do we get? How much information is needed?
- Are there other ways to deal with this that haven't been considered?
  - Engineering? Lid requirements? Bylaws towns could adopt?
- What level of conservation should be applied?
- What level of conservation should be applied?
  - Should the level of conservation be commensurate with the community's circumstances?
  - Some communities may not need more than baseline levels of conservation while others need more concerted efforts, based on their growth patterns and water availability
- Conflicting science says that conservation produces minimum improvements in stream flow - should be considered
- Want to keep long-term water supply at forefront of policy development discussions
- Need to consider most cost-effective ways of achieving result
- 65 gallon and UAW standards are sometimes not adequate
  - In the summertime, some communities need a stricter standard
- Want to see studies about best timeframe to achieve results

#### **Standards Issues:**

- Is this policy cost-effective?
- Need to consider equity and balancing the needs of communities now and in the future
- Communities are not on equal footing to be able to achieve the conservation standard – the policy should be more environmental context-specific
- Some stakeholders prefer to implement best management practices rather than quantitative performance-based approach (others feel the reverse)
- Need to consider a balance of the community's difficulty in complying with policy versus the magnitude of the problem in the community's area
- Want experts to help in our discussions
- Existing communities' annual statistical data is prepared based on inconsistent methodologies
  - Does this affect the reasonableness of the standards?
- What affect does each community's demographics's, housing stock, income levels and other factors have on water use, needs, and conservation efforts?

#### **Economic/Cost Issues:**

- Litigation costs for communities to do permitting
- Logistical costs
- Costs to do offsets
- Engineering costs
- Implementation costs
- Cost of not acting
- Avoiding future costs of developing new resources (desalination, etc.)
- Loss of development opportunities for towns (tax revenue)

- Should we consider more creative billing? Systems such as balancing reductions in cost with applying more costly solutions while customers pay the same rate
- Balance of costs and benefits across a watershed – not just across a community
- What period of time are we considering in achieving results?
- Recreation and tourism costs will increase if streams/rivers deteriorate
- What is the least cost way of achieving this result – Does this policy reach that outcome?
- Who pays freight on offsets?
- Need to consider more closely costs and timeframe to implement, to educate public, etc.
- Site variations significantly affect costs
- What is the reason when communities don't meet standard? Is it mainly from overuse in summer? If so, could we tailor the standard to just deal with summer use?
- Can low-use communities give us advice in devising a strategy? Or are the low-use communities only low-use communities circumstantially?
- How should we consider how higher prices can drive down usage?

**General Issues:**

- This policy doesn't address the underlying problem with the WMA that there's no consensus as to what is a "safe" withdraw rate
- This policy fails to balance competing uses – non-essential water withdrawals allowed too frequently
- This policy doesn't adequately balance the needs of this generation with the needs of future generations
- The policy doesn't deal with commercial and industrials
- Concerns about the accuracy of accounting in some communities' reported use
- Concerns that the low-stress performance standard is automatically applied to unassessed streams
- Context – not appropriate for entire basin/town regulated together when withdrawal and stress is uneven
- Should take preventative, not band-aid approach
- Timelines too long?
- Loopholes – private irrigation wells not addressed in policy
- Concerns that this policy is not consistent with other state policies (development, smart growth, 40R)

**Next meeting:** We'll choose a topic area to delve into first (likely legality, then move on to science as we gather experts to come and speak)

**Meeting Adjourned, 12:54 pm**